

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

MARTHA L.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 1:20-CV-00003-H-BU
	§	
KILOLO KIJAKAZI,	§	
Acting Commissioner of Social Security,	§	
	§	
Defendant.	§	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Martha L. filed this action seeking judicial review of an unfavorable decision of the Commissioner of Social Security regarding her Title II Social Security disability insurance benefits. *See* Dkt. Nos. 1, 26. Under Special Order No. 3-251 of this Court, this case was automatically referred for the determination of non-dispositive motions and the issuance of findings, conclusions, and recommendation of dispositive matters. After reviewing Plaintiff's and Commissioner's briefs, the undersigned entered Findings, Conclusions, and Recommendation of the United States Magistrate Judge recommending that the ALJ's decision be reversed and remanded for further administrative action under the fourth sentence of 42 U.S.C. § 405(g). *See* Dkt. No. 29. The Honorable United States District Judge James Wesley Hendrix accepted the FCR, and remanded the case to the Commissioner for further proceedings. Dkt. No. 30.

Now before the Court is Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act. Dkt. No. 32, 33. In her brief, Plaintiff asserts that fees are justified

because Plaintiff is the prevailing party. Dkt. No. 33 at 1. Plaintiff initially sought recovery for 22.8 attorney hours at the rate of \$203.94 per hour and 4.5 paralegal hours at the rate of \$100.00 per hour. *Id.* at 2. In response, the Commissioner does not oppose the award of reasonable fees, but objects to Plaintiff's asserted hourly rates. Dkt. No. 35 at 1. The Commissioner states that the proper hourly rate for the Abilene division is \$188.25 for attorney's fees and \$95 for paralegal fees, not the higher rate proposed by Plaintiff. *Id.* at 2. In reply, Plaintiff agrees with the Commissioner's rate. Dkt. No. 36 at 1. The undersigned has also independently determined that both the hourly rate and number of hours sought by Plaintiff is reasonable.

Thus, having considered the motion, the undersigned is of the opinion that it should be GRANTED. Accordingly, the undersigned RECOMMENDS that Plaintiff be awarded \$4,719.60 in fees, representing 22.8 hours at the attorney's fees hourly rate of \$188.25 and 4.5 hours at the paralegal's fees hourly rate of \$95.

#### RIGHT TO OBJECT

A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions, and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions, and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to

the briefing before the magistrate judge is not specific or sufficient. Failure to file written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except on grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir.1996).

ORDERED this 8th day of December, 2021.



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JOHN R. PARKER  
UNITED STATES MAGISTRATE JUDGE